

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CITY OF PHILADELPHIA et al.,  
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Plaintiffs,  
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-v-  
:

BANK OF AMERICA CORPORATION et al.,  
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Defendants.  
:  
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22-MC-0053 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

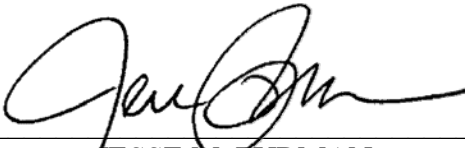
On May 27, 2022, Respondents submitted to the Court, *ex parte*, a log of documents that were provided to Plaintiffs’ counsel during the period from May 2016 to November 30, 2016, and which were not included among the documents produced in the New Jersey, New York, and Illinois False Claims Act (“FCA”) cases. ECF No. 67. Having reviewed the log, the Court finds that, with the exception of two sets of documents noted below, Respondents need not produce the documents logged because they are either not relevant or are protected from disclosure. Moreover, production of those documents in light of what has already been produced — namely, the productions from the state FCA cases and the documents referenced in the Amended Complaint, as well as the underlying economic analyses, *see* ECF No. 64 — would not be proportional.

The Court reserves judgment, however, with respect to two sets of documents. First Respondents have not adequately justified withholding the pre-existing “VRDO transaction documents” and “key documents [related to] specific VRDO[s]” that are referenced in the log. *See* ECF No. 67, Bates Nos. 493752, 2329, 3097, 3529, 4580, 5302, 5524, 5728, 6351, 492992, 493435, 494930, 2950, 4466, 4595, 5139, 5388, 493740, 494296. Unless Respondents can and do provide a more detailed description of these pre-existing documents that persuades the Court they are properly withheld, Respondents shall produce them to Defendants. No later than **July 22, 2022**, Respondents shall either (1) file a supplemental submission further describing and justifying their position regarding those documents (and, if appropriate, shall submit the documents themselves for *in camera* review); or (2) produce the documents to Defendants.

Second, Respondents shall, **by that same date**, submit to the Court the document referenced in the log, associated with Bates No. 5745, for further *in camera* review.

SO ORDERED.

Dated: July 13, 2022  
New York, New York

  
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JESSE M. FURMAN  
United States District Judge